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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/489,597
Filing Date: January 20, 2000
Appellant(s): GETSIN ET AL.

Steven M. Freeland
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/29/2007, appealing from the Office action

mailed 10/18/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,161,132   ROBERTS ET AL.   12-2000

6,108,687   CRAIG   8-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (hereinafter Roberts), U.S. Patent No. 6,161,132 issued December 2000, in view of Craig (hereinafter Craig), U.S. Patent No. 6,108,687 issued August 2000.

In regard to independent claim 1, Roberts teaches synchronization of entertainment media to musical CD recordings within client devices in a network chat

room environment, utilizing plug-ins (Roberts column 2 lines 19-26, column 6 lines 61-67, column 7 lines 10-24; compare with claim 1 *"A method for identifying playback devices of a plurality of client apparatuses which are networked to simultaneously playback an event, comprising the steps of:"*

Roberts teaches a chat server requesting a user insert a CD into his/her player, resulting in communication of the CD's unique identifier to said server, ultimately resulting in the opening of a chat room for eventual CD synchronization of other client devices (Roberts column 7 lines 15-37 to column 8 lines 14; compare with claim 1 *"receiving requests prior to a start time from each of the client apparatuses to simultaneously playback the event"*).

Roberts teaches a command plug-in for aiding in the playing of a musical recording, said plug-in gathers information regarding the capabilities of the client's CD drive, therefore determining the type of drive (i.e. 2x, 4x, etc.) (Roberts column 4 lines 1-16). Roberts also teaches said embodiment controlling devices other then audio CDs (i.e. DVD, etc.) (Roberts Abstract, column 2 lines 5-10) (compare with claim 1 *"identifying a type of the playback device of each of the client apparatuses"*).

Roberts teaches a remote host initiating actions on a client device, as well as said host becoming aware of user initiated actions on said device (i.e. CD player buttons, etc. (Roberts column 2 lines 5-26). In order for said host (i.e. server or chat server) to become aware of the client device controls, the command data regarding said controls must be made available to the host (compare with claim 1 *"looking up a command associated with the identified type of the playback device"*).

Roberts teaches synchronization of CD playback associated with a chat room (Roberts column 7 lines 15-37 to column 8 lines 14). If a chat room exists and is open with another client, the server will allow joining and synchronizing of a user's CD with the other client.

It is additionally noted that a chat room must ultimately start at some point in time, and prior to chat room participation/synchronization, Robert's chat server requests a user insert a CD into his/her player to communicate the CD's unique identifier (see above).

Although a predefined threshold period of acquisition can be defined as the time during the active participation of said chat room (the time duration of the chat room), alternatively the predefined threshold period can also be interpreted as the time between initial communication of said identifier, and the ultimate starting point of the simultaneous playback of an event (the chat room) (compare with claim 1 "*determining whether each request is received during a predetermined threshold period prior to the simultaneous playback of the event*").

Roberts teaches a chat host using the commands of a client device for synchronizing the display of content using a unique identifier (of the CD), as well as synchronization of participating client CDs by comparing and synchronizing information (i.e. start times, audio volumes, etc.) between devices during a chat room session using plug-ins (Roberts column 6 lines 60-67, column 7 lines 10-37 to column 8 lines 1-2). Roberts does not specifically teach said synchronization of client devices based upon analyzing device type capabilities, as claimed. However, Roberts teaches a plug-in

which collects capabilities about a CD drive (Roberts column 2 lines 1-18, column 4

lines 1-16). It would have been obvious to one of ordinary skill in the art at the time of

the invention to apply the plug-in analyzing CD capabilities and controls, to Robert's

chat room embodiment, providing the analysis of device type commands for chat room

CD device synchronization, providing Robert's the benefit of synchronization of audio

CD devices with a wide array of different characteristics (i.e. speed 1x, 2x, 4x, 8x, etc.)

(compare with claim 1 "*sending the command to the corresponding client apparatus for*

beginning the playback of the event simultaneously with the playback of the event on

each of the remaining client apparatuses….").

Roberts teaches synchronization of CD playback associated with a chat room

(Roberts column 7 lines 15-37 to column 8 lines 14). As explained above, if a chat room

exists and is open with another client, the server will allow joining and synchronizing of

a user's CD with the other client, therefore the predefined threshold period of acquisition

can be the time during the active participation of said chat room (the time duration of the

chat room). During the chat session, a client may indicate a change (a predetermined

point) in the position of the CD, therefore propagating said change to all other clients

accordingly, at a time during the playback of the event.

Alternatively, however, a predetermined threshold period can be interpreted as

the period of time between initial communication of each CD's identifier, and the

ultimate starting point of the simultaneous playback of an event (the chat room) (see

above), therefore the chat room ultimately starts with the CD devices initially identified

during a predetermined threshold period. Accordingly, since chat rooms typically allow

user participation at any point during the chat room's existence, likewise, Roberts allows

a new CD device to join in at any point after the chat room begins. Since this occurs

after the predetermined threshold period as alternatively explained above, the server

never receives the new CD device's identifier during said threshold period (compare

with claim 1 *"for those requests received during the….not received during the threshold*

period.").

Roberts does not specifically teach that received requests during its threshold

period occur prior to *"a start time of initially beginning"* the playback. However, Craig

teaches synchronized presentation of slides over a network, in which display is

synchronized across participating clients accordingly (Craig Abstract). Craig additionally

teaches initiation of a presentation with a slide showing title and presentation start time,

allowing student users to establish connections, and thereby alerting said users as to

when the lecture/presentation is to begin (Craig column 12 lines 7-21). It is noted that

Craig's presentation "initiation" period can be reasonably interpreted as a predefined

threshold period, and the beginning of Craig's "actual presentation" can be reasonably

interpreted as the beginning (start time) of the simultaneous playback of the event. It

would have been obvious to one of ordinary skill in the art at the time of the invention to

apply Craig to Robert's device synchronization, providing Roberts the benefit of allowing

all participating users to experience a multimedia chat session in its entirety (i.e.

beginning a simultaneous chat session), for better understanding of a presentation,

especially in an educational setting.

In regard to dependent claim 2, Roberts teaches both visual and audio presentations (Roberts column 4 lines 58-67 to column 5 lines 1-27).

In regard to dependent claim 3, claim 3 incorporates substantially similar subject matter as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

Roberts teaches a chat room network for identifying and synchronizing devices as explained in the rejection of claim 1 above (see also Roberts Abstract, column 6 line 61, to column 7 lines 30).

In regard to dependent claim 4, Roberts teaches the Internet (a wide area network) (Roberts column 1 lines 57-61).

In regard to dependent claim 5, Roberts teaches generation of a unique identifier associated with musical recordings on a CD, as well as a CD key for entering special Web areas (Roberts column 6 lines 49-60). Roberts does not specifically teach a client apparatus storing an identifier for identifying a host (i.e. Roberts's chat room host embodiment does not store host identification in the client device), as claimed. However, since it is known that chat session synchronization between a chat server and clients involve communication between said server and all participating clients, Roberts's teaching of said chat room embodiment provides the claimed equivalent of a host identifier so that two way communication can commence. It would have been

obvious to one of ordinary skill in the art at the time of the invention to interpret Roberts

in this fashion, providing a client device of Roberts a key piece of essential information

so that the client device knows the identification of the chat server.

In regard to dependent claim 6, Roberts teaches an embodiment utilizing a

DVD device (Roberts column 2 lines 5-10).

In regard to independent claim 7, claim 7 reflects the computer program

product comprising computer readable instructions used for performing the methods as

claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claims 8-12, claims 8-12 reflect the computer program

product comprising computer readable instructions used for performing the methods as

claimed in claims 2-6, respectively, and are rejected along the same rationale.

In regard to independent claim 13, claim 13 reflects the system comprising

computer readable instructions used for performing the methods as claimed in claim 1,

and is rejected along the same rationale.

In regard to dependent claims 14-18, claims 14-18 reflect the computer

program product comprising computer readable instructions used for performing the

methods as claimed in claims 2-6, respectively, and are rejected along the same

rationale.

(10) Response to Argument

Beginning on page 13 of the appeal brief (hereinafter the brief), Appellant argues

the following issues which are accordingly addressed below.

Appellant argues on page 14 of the brief that the combination of Roberts and

Craig would not render receiving requests prior to an event. Appellant also asserts that

Roberts' chat room must be active to allow users to establish their connections and

would not determine whether requests are received prior to the threshold period.

The examiner respectfully disagrees. As explained in the instant rejections,

Roberts teaches synchronization of entertainment media to musical CD recordings

within client devices in a network chat room environment for simultaneous playback of

an event. Roberts teaches a chat server requesting a user insert a CD into his/her

player, resulting in communication of the CD's unique identifier to said server, ultimately

resulting in the opening of a chat room for eventual CD synchronization of other client

devices.

Although a predefined threshold period of acquisition can be reasonably defined

as the time during the active participation of said chat room (the time duration of the

chat room), alternatively the predefined threshold period can also be interpreted as the time between initial communication of said identifier, and the ultimate starting point of the simultaneous playback of an event (the chat room).

The examiner admits that Roberts does not specifically teach received requests during its threshold period occur prior to "*a start time of initially beginning*" the playback. However, Craig teaches synchronized presentation of slides over a network, in which display is synchronized across participating clients accordingly. Craig additionally teaches initiation of a presentation with a slide showing title and presentation start time, *allowing student users to establish connections, and thereby alerting said users as to when the lecture/presentation is to begin*. It is noted that Craig's presentation "initiation" period can be reasonably interpreted (along with Roberts) as a predefined threshold period, and the beginning of Craig's "actual presentation" can be reasonably interpreted as the beginning (start time) of the simultaneous playback of the event. The examiner applies Craig to Robert's device synchronization, providing Roberts the benefit of allowing all participating users to experience a multimedia chat session in its entirety (i.e. beginning a simultaneous chat session), for better understanding of a presentation, especially in an educational setting.

It is respectfully noted that it appears Appellant is arguing each reference separately (bodily incorporation), and not as a combination. The test of obviousness is what the combination of references suggests to the skilled artisan. Both references deal at least with synchronization of presentations. The combination would allow at least synchronization of a presentation for the entire said presentation.

Appellant argues on pages 15-16 of the brief that the references of record do not teach looking up commands associated with the type of the playback device.

The examiner respectfully disagrees. Roberts clearly teaches a command plug-in for aiding in the playing of a musical recording, said plug-in gathers information regarding the capabilities of the client's CD drive, therefore "*determining the type of drive*" (i.e. 2x, 4x, etc.). Roberts also teaches said embodiment controlling devices other then audio CDs (i.e. DVD, etc.). Representative claim 1 does not preclude this interpretation. In order for Roberts to determine a type of drive, it must be aware of specific data and flags specific to each type of drive.

Appellant argues on pages 16-19 of the brief that the cited art of record does not teach a "*predetermined threshold period*".

The examiner respectfully disagrees. A predefined threshold period of acquisition can be defined as the time during the active participation of said chat room (the time duration of the chat room). Alternatively the predefined threshold period can also be interpreted as the time between initial communication of said identifier, and the ultimate starting point of the simultaneous playback of an event (the chat room). Craig is used to teach said predetermined threshold period of time occurring "*before*" the initial start of a presentation. Since representative claim 1 does not specify how long said threshold time period is, the examiner interprets a threshold time period as any amount of time. It is respectfully submitted that Appellant is reading the specification into the claimed limitations.

Appellant's arguments on pages 20-24 are substantially similar to those presented above.

Appellant argues on page 25 of the brief that there is no motivation to combine Craig with Roberts.

The examiner respectfully disagrees. Both references deal at least with synchronization of a presentation to a plurality of clients. Craig's use is mostly educational. In addition to the instant rejections, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply Craig to Robert so that Roberts can apply it chat room in an educational setting.

Appellant's arguments on pages 26-28 are substantially similar to those presented above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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February 19, 2008

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